IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE P.R.RAMAN

WEDNESDAY, THE 14TH MARCH 2007 / 23RD PHALGUNA 1928

CRP.No. 2539 of 1999(A)

CR.630/73/MVA/A7 of TALUK LAND BOARD, MUVATTUPUZHA

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REVN. PETITIONERS/INTERESTED PARTIES

1. K.U.JACOB, S/O.CHACKO ULAHANNAN, OLICKAL PUTHENPURA, ONAKKUR.

2. K.U.JOHNY, S/O.CHACKO ULAHANNAN, -DO- -DO-

BY ADV. SRI.P.GOPALAKRISHNA WARRIYAR
SRI.H.SIVARAMAN

RESPONDENTS:

1. THE TALUK LAND BOARD, MUVATTUPUZHA
REPRESENTED BY ITS CHAIRMAN.

2. THE TAHSILDAR, TALUK OFFICE, MUVATTUPUZHA.

3. THE STATE OF KERALA REPRESENTED BY ITSelf
CHIEF SECRETARY, SECRETARIAT, THIRUVANANTHAPURAM.

BY GOVERNMENT PLEADER SRI NOBLE MATHEW

THIS CIVIL REVISION PETITION HAVING BEEN FINALLY HEARD ON 14/03/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

P.R.RAMAN, J.

C.R.P.NO.2539 OF 1999

Dated this the 14th day of March, 2007

O R D E R

Petitioners are sons of the original declarant against whom proceedings were initiated by the Taluk Land Board and finally it was found that an extent of 1.47.875 acres of land owned and possessed by the declarant as excess land and has ordered to be surrendered. That order was passed on 22/9/1976. That was a subject matter of challenge in C.R.P.No.4830/76. Since there was a claim for exemption as rubber plantation, the matter was remanded to consider the same as per the order passed by this Court in the said C.R.P. A revised order was subsequently passed again directing the declarant to surrender an extent of 1.47.875 acres of land, after rejecting the contention regarding the claim for exemption. That was again challenged in C.R.P.No.1065/79 which was eventually dismissed by order dated 6/7/1981. Thereafter, son of the declarant (brother of the petitioners) filed an application under Section 85(8) seeking reopen the matter and the Taluk Land Board by its order dated 29/4/1982 reopened the matter and found that there is no excess land to be surrendered. Inter alia contending that it is nothing but a change of opinion as the claim for

exemption was earlier refused and challenging the same the State filed C.R.P.No.1666/83 before this Court and this Court by order dated 6/9/1988 allowed the said revision, as it was found that the Taluk Land Board has no jurisdiction to reopen the matter and it became final. Thereafter, the petitioners filed option statement for surrendering the land. The Taluk Land Board in its impugned order held that only an extent of 1 acre was available in the possession of the petitioners herein in Sy.No.941/2 and the option statement of an extent of 1 acre from Sy.No.941/2 was accepted and the balance extent of 47.875 cents of land (0.13 cents in Sy.No.976/1 and 34.875 cents in Sy.No.944/7) was ordered to be surrendered, against which the present revision is filed.

2. The learned counsel, Sri Sivaraman, appearing on behalf of the petitioners limiting his submission, contended that an extent of 1 acre of land has already been surrendered and the balance is only 47.875 cents. If the land opted by the petitioners is not feasible, they will give fresh option. It is true that the petitioners ought to have filed an option statement of lands in their possession and the Taluk Land Board then is bound to take possession accepting the option statement; but here the land opted to be surrendered is found to be not in the possession of the petitioners and as such option statement was not accepted as empowered under Section 85(6) of the Kerala Land Reforms Act.

However, the counsel for the petitioners submits that the petitioners may be given one more opportunity to give an option statement regarding the balance extent to be surrendered and undertakes that such extent will be offered to be surrendered from the land actually in their possession.

3. Heard the learned Government Pleader also.

4. In the factual situation, there will be a direction that if the petitioners file a statement opting to surrender the balance extent of 47.875 cents of land, which is exclusively in their possession, the Taluk Land Board may verify the same and accept the option statement, if it is found to be in their possession, failing which it will be open to the Taluk Land Board to take possession of the land as already ordered. The option statement shall be filed before the Taluk Land Board within two weeks from the date receipt of a copy of this order.

5. Petitioners shall produce a copy of this order along with an option statement before the Taluk Land Board for information and compliance.

C.R.P. is disposed of as above.

P.R.RAMAN,
Judge.

kcv.

P.R.RAMAN, J.

C.R.P.NO.2539 OF 1999

O R D E R

14th March, 2007